THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6622 of 2006

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DATED:03-04-2006

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BETWEEN

Syed Sirajuddin.

…PETITIONER

AND

State of AP, rep. by its Principal Secretary,
Municipal & Urban Development Department,

Secretariat, Hyderabad and others.

…RESPONDENTS

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6622 of 2006

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents in marking a portion of petitioner's building property bearing municipal

assessment Nos. 1032008353 to 1032008381 situated adjoining Kotla Bazaar at Munthavari Centre of Chirala Municipal Limits with a direction to demolish the same for road widening, as illegal and arbitrary.

The case of the petitioner is that he is the absolute owner and possessor of the above said building situated at Kotla Bazaar at Munthavari Centre of Chirala Municipality and that he constructed a shopping complex therein after obtaining sanction plan from the then local authority. It is stated that on 21.03.2006 the employees of the respondents 3 to 4 and 5 to 7 visited the premises of the petitioner and began marking on walls of his building in varying extents and thereby asking the petitioner to remove his building up to the marked portion within two days and threatened to demolish the same for the purpose of road widening.

The learned counsel for the petitioner submits that for the purpose of widening the road the respondents earmarked the structures belonging to the petitioner and the respondents are proposing to demolish the same without following due procedure prescribed in law. He further submits that even under the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act') without acquiring the lands of the private citizens, portion of any property cannot be taken away for the purpose of road widening, either by way of private negotiations or by way of initiating proceedings under the Act. He further submits that the petitioner has not encroached any road and he has constructed the building or structures as per the approved plan only.

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same by following due process of law. This Court disposed of a number of writ petitions directing the respondent not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,
the respondents are directed not to demolish or take away any portion of the property of the petitioner and not to dispossess him without following due process of law under Section 172(2) or 174 of the Act.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

Dated: 03-04-2006

Note:

CC by two days

(Bo)

sj

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